

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA

v.

ERIC PRESCOTT KAY

No. 4:20-CR-269-Y

**GOVERNMENT’S MOTION TO STRIKE
WITNESS AND EXHIBIT LISTS**

This case was set for trial on November 8, 2021, and the Court’s scheduling order required the parties to file their witness and exhibit lists on November 1, 2021 (Dkt. 42). Accordingly, the government filed its witness list and exhibit list on November 1, 2021, On the same date, defendant filed a motion to continue, which the Court granted (Dkt. 79). The Court reset the trial for February 8, 2022, and ordered that the parties file their witness and exhibit lists by February 1, 2022 (Dkt. 82).

When the government filed its witness list and exhibit list, it requested permission from the Court to file its witness list and exhibit list under seal. The defendant was not opposed to the government’s request. After the Court continued the trial, the Court issued an order granting the government’s request that the lists be filed under seal and that the witness and exhibit lists be filed on the docket accordingly (Dkt. 85). In the time since the Court granted the defendant’s motion to continue, the government has obtained additional affidavits that authenticate documents, removing the need for certain witnesses. If defense counsel is amenable, the government also anticipates working

with them to reach certain evidentiary stipulations that would obviate the need for other witnesses. The additional affidavits and other information received over the last approximately 60 days may also result in changes to the government's exhibit list for the February 8, 2022 trial.

In light of the above, the government's currently filed witness list and exhibit list are moot and should no longer be considered live or active pleadings. The government will file a witness list and an exhibit list on or before February 1, 2022, as required by the Court's most recent scheduling order. Accordingly, the government requests that the Court strike the government's witness list (Dkt. 86) and exhibit list (Dkt. 87) from the current court record and docket.

Respectfully submitted,

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s/ Lindsey Beran

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CERTIFICATE OF CONFERENCE

I certify that I reached out to Michael Molfetta and Reagan Wynn, counsel for defendant Eric Kay, on December 28, 2021; December 29, 2021; December 30, 2021; and January 4, 2022, to obtain the defendant's position on the government's motion and to date they have not responded.

s/ Lindsey Beran

Lindsey Beran

Assistant United States Attorney